

TIFFANY & BOSCO
P.A.

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10-12299

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA**

IN RE:

Leon Jay Klein and Stacy Ellen Klein

Debtors.

Wells Fargo Bank N.A. successor by merger to
Wells Fargo Home Mortgage, Inc.

Secured Creditor,

vs.

Leon Jay Klein and Stacy Ellen Klein, Debtors;
U.S. Trustee, Trustee.

Respondents.

No. 2:09-bk-30142-CGC

Chapter 11

OBJECTION TO 11 PLAN

Wells Fargo Bank N.A. successor by merger to Wells Fargo Home Mortgage, Inc., a secured creditor, by its attorneys, TIFFANY & BOSCO, P.A., hereby objects to the proposed 11 Plan filed by the Debtors for the following reasons:

1 Wells Fargo Bank N.A. successor by merger to Wells Fargo Home Mortgage, Inc., files this
2 response to the proposed 11 Plan of the Debtors. The Chapter 11 Plan provides for an impermissible cram
3 down of Wells Fargo Bank N.A. successor by merger to Wells Fargo Home Mortgage, Inc.'s lien interest
4 on the real property commonly known as 6900 East Princess Drive #2129, Phoenix AZ 85054.
5

6 Wells Fargo Bank N.A. successor by merger to Wells Fargo Home Mortgage, Inc., objects to
7 the value of the subject real property as Debtors arbitrarily proposes that the fair market value of
8 Secured Creditor's claim is without providing any legal or factual authority for such capricious
9 treatment. Such modification is simply not supported by the Bankruptcy Code or the facts of this case.
10
11

12 Wells Fargo Bank N.A., objects to the proposed Plan does not set forth a reasonable schedule
13 and time period for the payment of the arrearages owed to the Secured Creditor. The payoff period and
14 monthly repayment amount proposed by the Debtors exceeds a reasonable arrangement in light of the
15 Debtors' past non-payment history. The proposed Plan appears to attempt to cram-down Secured
16 Creditor's claim by scheduling or providing for a total claim to Secured Creditor in the amount of
17 \$65,000.00, while in fact the total claim owed to Secured Creditor is in excess of \$120,000.00. The
18 proposed Plan payments of \$292.22 per month for 96 months, with a 4.5% interest rate with payments
19 amortized over 40 years, with a "balloon payment" on the 96th month with the balance due on the
20 principal at the end of the 60 month plan being \$59,000.00. The remaining portion of the claim,
21 approximately \$55,000.00, is to be treated as a General Unsecured Claim under Class 9 of the Plan.
22 The Plan proposes to pay the secured claim of Client at an interest rate of 4.5%, which is not reasonable
23 under current market conditions.
24

25 WHEREFORE, secured creditor prays as follows:

26 (1) That the 11 Plan be denied.

1 (2) For such other relief as this Court deems proper.

2 DATED this 10th day of May, 2010.

3 Respectfully submitted,

4 TIFFANY & BOSCO, P.A.

5 BY /s/ MSB # 010167

6 Mark S. Bosco

7 Leonard J. McDonald

8 Attorneys for Secured Creditor

9 COPY of the foregoing mailed
10 May 10, 2010 to:

11 Leon Jay Klein and Stacy Ellen Klein
12 10855 E. Gold Dust
13 Scottsdale , AZ 85250
14 Debtors

15 Lawrence D. Hirsch
16 7310 N. 16th Street
17 Suite 330
18 Phoenix, AZ 85020
19 Attorney for Debtors

20 U.S. Trustee
21 230 North First Avenue
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23 Phoenix, AZ 85003
24 Trustee

25 By: April Crane
26